

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Janine Zajac	Team: Team # 1	CCRB Case #: 201210147	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 07/26/2012 11:20 PM	Location of Incident: Sherman Avenue & 161st Street	Precinct: 44	18 Mo. SOL 1/26/2014	EO SOL 1/26/2014	
Date/Time CV Reported Tue, 07/31/2012 1:22 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 08/07/2012 1:18 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Wilfredo Benitez	15506	947459	044 PCT
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nelson Delarosa	06208	948857	PBBX
2. POF Maria Brito	01024	948694	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Wilfredo Benitez	Force: PO Wilfredo Benitez used physical force against § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	

### Case Summary

On July 31, 2012, at approximately 1:22 p.m., § 87(2)(b) filed a complaint with IAB by calling 911, which generated log #12-40633. § 87(2)(b) complaint was received at the CCRB on August 7, 2012.

On July 26, 2012, at approximately 11:20 p.m., § 87(2)(b) was seeing a movie at the Concourse Plaza Multiplex Cinemas located at 214 East 161<sup>st</sup> Street in the Bronx. While in the theater, § 87(2)(b) “became excited by yelling.” PO Wilfredo Benitez of the 44<sup>th</sup> Precinct approached him and grabbed him by the shoulder and told § 87(2)(b) to be quiet. § 87(2)(b) complied, but PO Benitez touched him again. § 87(2)(b) said, “Don’t touch me” and began fighting with PO Benitez. PO Benitez grabbed him and asked him to leave, and § 87(2)(b) challenged an unspecified officer to a fight. § 87(2)(b) left the theater. PO Benitez’s partner called for backup and numerous police officers responded and beat him up. § 87(2)(b) stated that he was taken to § 87(2)(b) Hospital the same day and received 5 staples on his head, an unspecified injury to his lip, and an abrasion to his neck. PO Benitez was identified in the IAB log as the subject officer, though it is not clear how he was identified. Sgt. Brian Eng of group 54 at IAB contacted the undersigned investigator on August 9, 2012 to say that he is conducting a concurrent investigation, and he provided the names of PO Nelson Delarosa and PO Maria Brito, both of Patrol Borough Bronx, who were present for the incident.

§ 87(2)(b) was reached by phone on August 8, 2012. § 87(2)(b) said he was only interested in suing the officers, and that he was leaving for Florida on August 9, 2012 and he did not know when he would return to New York. § 87(2)(b) said the conversation with the undersigned investigator was irrelevant, as he planned to kill his cousin in Florida if she did not have the money she owed him, at which point he would be “on the run.” An initial “please call” letter was sent on August 16, 2012. On the same day, a message was left with the person who answered § 87(2)(b) home phone. On August 22, 2012, a message was left with the person who answered, who said § 87(2)(b) would not be back until September. This woman did not have another way to contact § 87(2)(b) and said he left his cell phone in New York. An additional call to § 87(2)(b) was made on September 11, 2012, and the woman who answered said § 87(2)(b) would not return until the end of October. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

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Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date